

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

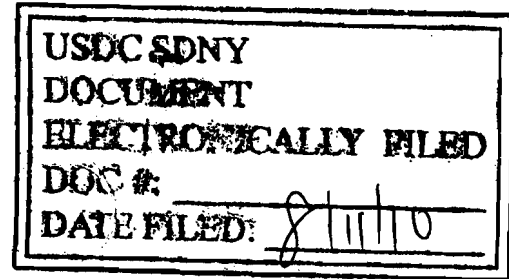
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23-34 94TH ST. GROCERY CORP., KISSENA :
BLVD. CONVENIENCE STORE, INC., NEW :
YORK ASSOCIATION OF CONVENIENCE :
STORES, NEW YORK STATE ASSOCIATION :
OF SERVICE STATIONS AND REPAIR SHOPS, :
INC., LORILLARD TOBACCO COMPANY, :
PHILIP MORRIS USA INC., and R.J. :
REYNOLDS TOBACCO CO., INC., :
:

Plaintiffs, :

-v- :

NEW YORK CITY BOARD OF HEALTH, NEW :
YORK CITY DEPARTMENT OF HEALTH AND :
MENTAL HYGIENE, NEW YORK CITY :
DEPARTMENT OF CONSUMER AFFAIRS, :
DR. THOMAS FARLEY, in his official :
capacity as Commissioner of the New :
York City Department of Health and :
Mental Hygiene, and JONATHAN :
MINTZ, in his official capacity as :
Commissioner of the New York City :
Department of Consumer Affairs, :
:

Defendants. :
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10 Civ. 4392 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

The plaintiffs in this action, who are retailers, retail trade organizations, and tobacco manufacturers, bring various challenges to New York City Health Code Article 181.19, a recently adopted resolution of the New York City Board of Health that requires tobacco retailers to display certain health warnings. On July 22, 2010, American Legacy Foundation and a number of other public health organizations¹ moved for leave to participate as amici curiae in

¹ In addition to American Legacy Foundation, the proposed amici include: American Academy of Pediatrics, American Cancer Society, ACS Cancer Action Network, American College of

support of the above-captioned defendants. Plaintiffs oppose this motion on the ground that the proposed amici are unlikely to offer any information or argument that would not be raised by the parties to this case.

Although plaintiffs' objection has some force, on balance the Court has determined to grant the proposed amici leave to participate, primarily because plaintiffs in this case are represented by numerous large law firms and illustrious counsel, whereas the defendants are represented only by the perennially understaffed office of the Corporation Counsel of the City of New York. In such circumstances, where there is such a glaring disparity in the parties' legal resources, a modest participation by amici is not inappropriate and may well prove helpful to the Court.

Accordingly, the proposed amici are hereby granted leave to file a memorandum of law in opposition to plaintiffs' motion for a preliminary injunction and in support of defendants' anticipated motion for summary judgment. This memorandum may not exceed fifteen

Preventive Medicine, American Lung Association, American Lung Association in New York, American Medical Association, American Public Health Association, Asian Pacific Partners for Empowerment, Advocacy, and Leadership, Campaign for Tobacco-Free Kids, Citizens' Commission to Protect the Truth, Faith United Against Tobacco, Lung Cancer Alliance, Massachusetts Association of Health Boards, Medical Society for the State of New York, National African American Tobacco Prevention Network, National Association of Chronic Disease Directors, National Association of County and City Health Officials, National Association of Local Boards of Health, National Coalition for LGBT Health, National LGBT Tobacco Control Network, Oncology Nursing Society, Partnership for Prevention, and Tobacco Control Legal Consortium.

double-spaced pages and must be filed on or before August 20, 2010.

The Clerk of the Court is directed to close document number 34 on the docket of this case.

SO ORDERED.

Dated: New York, NY
August 11, 2010


JED S. RAKOFF, U.S.D.J.